

§ 312.3

8 CFR Ch. I (1–1–03 Edition)

determines that an inaccurate or incomplete record of the examination would result if the examination on technical or complex issues were conducted in English. In such a case the examination may be conducted in the applicant's native language, with the assistance of an interpreter selected in accordance with § 312.4;

(iii) The applicant has met the requirements of § 312.3.

(2) *Scope and substance.* The scope of the examination shall be limited to subject matters covered in the Service authorized Federal Textbooks on Citizenship except for the identity of current officeholders. In choosing the subject matters, in phrasing questions and in evaluating responses, due consideration shall be given to the applicant's education, background, age, length of residence in the United States, opportunities available and efforts made to acquire the requisite knowledge, and any other elements or factors relevant to an appraisal of the adequacy of the applicant's knowledge and understanding.

(Approved by the Office of Management and Budget under control number 1115-0208)

[56 FR 50481, Oct. 7, 1991, as amended at 58 FR 49912, Sept. 24, 1993; 62 FR 12923, Mar. 19, 1997; 62 FR 15751, Apr. 2, 1997; 64 FR 7993, Feb. 18, 1999]

§ 312.3 Standardized citizenship testing.

(a)(1) An applicant for naturalization may satisfy the reading and writing requirements of § 312.1 and the knowledge requirements of § 312.2 by passing, within one (1) year preceding the date on which he or she files an application for naturalization, or at any time subsequent to filing an application but prior to a final determination on the application, a standardized citizenship test given by an entity authorized by the Service to conduct such a test.

(2) The applicant must still demonstrate his or her ability to speak and understand English in accordance with § 312.1(c)(1). An applicant who passes a standardized citizenship test may submit evidence of passage of the test either with the submission of the application, at the examination on the application, or at the time of the second examination provided in § 312.5(a). Any

evidence of passage submitted by the applicant shall be subject to independent verification by the Service with the test provider.

(3) An applicant who passes a standardized citizenship test as provided in paragraph (a)(1) of this section for naturalization shall not be reexamined at the Service naturalization interview on his or her ability to read and write English or on his or her knowledge of the history and form of government of the United States, unless the examining officer has reasonable cause to believe, subsequent to verification of the applicant's test results with the authorized testing entity, that the applicant's test results were obtained through fraud or misrepresentation. The Applicant's inability to speak English may not be the sole reason for finding that the test results were obtained through fraud or misrepresentation. A written record of the officer's determination shall be made in the record of the application including the response from the testing entity concerning the applicant's test.

(4) An applicant who has failed a standardized citizenship test will not be prejudiced by that failure during an examination conducted by the Service under §§ 312.1 and 312.2, and may continue to pursue the application with the Service as if the applicant had never taken the standardized test.

(b) An applicant who has obtained lawful permanent resident alien status pursuant to section 245A of the Act, and who, at that time demonstrated English language proficiency in reading and writing, and knowledge of the government and history of the United States through either an examination administered by the Service or a standardized section 312 test authorized by the Service for use with Legalization applicants as provided in section 245A(b)(1)(D)(iii) of the Act, will not be reexamined on those skills at the time of the naturalization interview. However, such applicant must still establish eligibility for naturalization through testimony in the English language.

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